

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Criminal) No(s). 391/2021

KAZEEM AHMAD SHERWANI

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

[PART HEARD BY HON'BLE MR. JUSTICE VIKRAM NATH AND HON'BLE MR. JUSTICE SANDEEP MEHTA].....FOR FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 118377/2021
IA No. 118377/2021 - EXEMPTION FROM FILING AFFIDAVIT

Date : 16-02-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) : Mr. Huzefa Ahmadi, Sr. Adv.
Ms. Shahrukh Alam, Adv.
Mr. Talha Abdul Rahman, AOR
Ms. Warisha Farasat, Adv.
Ms. Suvarna, Adv.
Mr. Sudhanshu Tewari, Adv.
Mr. Faizan Ahmed, Adv.

For Respondent(s) : Mr. Km Nataraj, A.S.G.
Ms. Ruchira Goel, AOR
Ms. Indira Bhakar, Adv.
Mr. Sharanya, Adv.
Ms. Ritika Rao, Adv.

Mr. Shovan Mishra, AOR
Ms. Bipasa Tripathy, Adv.
Mr. Shlok Luthra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Today, during the course of the hearing, Shri K.M. Nataraj, learned Additional Solicitor General makes a statement that from the allegations as set out in the complaint lodged by the petitioner, the

necessary ingredients of the offences punishable under Sections 153B and 295A of the Indian Penal Code, 1860 (for short 'IPC') were made out and the FIR ought to have been registered for the said offences. However, by now, chargesheet has been filed without invoking these offences, and hence, the Investigating Officer would be better advised to move an application to the trial Court for return of the original file so that further investigation can be made by invoking these offences and seeking the mandatory sanction from the Government under Section 196 of the Code of Criminal Procedure, 1973 (corresponding Section 217 of the BNSS).

2. Shri Nataraj assures that upon procuring the case file, the Investigating Officer shall make further investigation and thereafter move an application to the competent Government for grant of sanction to prosecute the accused for the aforesaid offences and a fresh report under Section 173(2) CrPC (corresponding Section 193(3) of the BNSS) will be filed before the competent Court within next six weeks.

3. Manifestly, the Investigating Officer committed grave error in not applying the appropriate offences which were made out on a bare perusal of the FIR lodged by the petitioner. However, now under

proper legal advice, the investigation agency proposes to rectify the error by moving an appropriate application to the trial Court for return of the original record so that further investigation can be conducted with addition of the applicable offences and sanction mandatorily required under Section 196 CrPC (corresponding Section 217 of the BNSS) can be sought.

4. In this view of the matter, we hereby defer the matter by eight weeks so as to give time to the respondent Investigation Agency to take appropriate measures for rectifying the errors highlighted in this petition.

5. List on 21st April, 2026.

(SONIA BHASIN)
ASSISTANT REGISTRAR-CUM-PS

(RANJANA SHAILY)
ASSISTANT REGISTRAR